

AUG 8 1989

We have completed our review of the application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code which you filed.

Your organization is governed by a Board of Trustees. These members shall number at least three, but not more than six qualified persons. The Trustees shall be elected at an annual meeting of the church and shall serve for a term of seven years. In the event of a vacancy, the remaining trustees may fill the vacancy by a 2/3 vote of all trustees. You state that your current trustees consist of [REDACTED], (Assistant Pastor), [REDACTED], [REDACTED] and [REDACTED], one of the organization's incorporators. [REDACTED] are brothers of the founder and president/pastor of your organization, [REDACTED].

You have provided information that you have conducted religious services since [REDACTED], but were not formally incorporated until [REDACTED]. Your organization is not formally affiliated with any other religious organization but your [REDACTED] has been licensed by [REDACTED] since [REDACTED] and was ordained by the [REDACTED] on [REDACTED]. He was also given the title of Bishop on [REDACTED] by the [REDACTED].

[REDACTED]

You state in your application that your pastor does not work full-time for the church but is also engaged in selling insurance and is associated with an outreach ministry called [REDACTED].

In a Community News Letter published under the name of the [REDACTED], your organization provides the following information:

"If you are tired of being Blocked out, Kept out, or Locked out of the Best Goods and Services that our American Society has to offer, Now you can join this special Ministry which will back you up with Almighty Power of Jesus Christ to help you enjoy Abundant Life not only in the Spiritual realm, but also in this Material realm: Come and get the clothes that you want, furniture, apartment, houses, cars, business opportunities. Come and enjoy this Abundant Life Ministry."

You also state in your application that your pastor/president spends 40 hours per week in an outreach ministry that operates from the church building Monday through Friday during the hours of 9:00 a.m. to 4:00 p.m. This organization provides seminars to show individuals how to "eliminate poverty." A brochure submitted with your application states that [REDACTED] provides help with Collective Cooperative Programming for Security Plans in better luxury low income housing, tax shelter through insurance for business persons, tax rebate through insurance for business persons, tax rebate through insurance for education, tax advantage and savings for entertainers and athletics and monetary benefits to the church to provide the needed help to you."

You further provide that this outreach ministry involves a trust fund called the "[REDACTED]" which is a product of [REDACTED]. You state that to operate this plan, you expect to sell insurance to fund the [REDACTED]. The purpose of this fund is to eliminate property and human suffering.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious and other stated purposes.

Income Tax Regulations section 1.501(c)(3)-1(a)(1) provides that, to be exempt, an organization described in section 501(c)(3) must be both organized and operated exclusively for one or more of the purposes described in this section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Regulations section 1.501(c)(3)-1(b)(1) specifies that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes.

Regulations section 1.501(c)(3)-1(c)(1) stipulates that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish any of the activities specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Regulations section 1.501(c)(3)-1(d)(1)(ii) specifies that an organization is not organized or operated exclusively for an exempt purpose unless it serves public rather than private interests.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations state that an organization is not organized or operated exclusively for exempt purposes unless it serves public rather than private interests. Thus, to meet the requirement of this section, it is necessary for the organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, or persons controlled directly or indirectly by such private interests.

In Ecclesiastical Order of Ism of Am v. Commissioner, 80 TC 833, the Tax Court stated that an organization whose unorthodox religious doctrines were assumed to be legitimate did not qualify for tax exemption under section 501(c)(3) because of the organization's extensive tax counseling services. In that opinion the Tax Court responded to the organization's claim that it was obligated to share tax information with its members by stating "...There is a big difference between informing members that ministers may be entitled to special tax benefits, as an incident to carrying on primarily religious activities, and suggesting innumerable methods by which ministers can maximize tax benefits, which is carried on as a substantial activity in and of itself."

In National Association of American Churches v. Commissioner of Internal Revenue, 82 TC 1984, an organization conducted religious activities through its family missions, but also encouraged its members to transfer personal, family assets to their incorporated family missions for tax reasons and that promoted seminars for its members to show how to maximize tax benefits for members was denied tax exempt status under section 501(c)(3). The court held that the organization served as a substantial nonexempt purpose of providing financial and tax advice to its members.

In Better Business Bureau v. United States, 326 U.S. 279, 283 (1945), the Supreme Court states that to be exempt under section 501(c)(3), an "organization must be devoted to exempt purposes exclusively. This plainly means that the presence of a single nonexempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes." See also Basic Bible Church v. Commissioner, 74 TC 846 (1980).

[REDACTED]

To qualify for exemption under section 501(c)(3), the applicant organization has the burden of showing, (1) that it was organized and operated exclusively for religious or other stated purposes, (2) that no part of its net earnings inured to the benefit of a private individual or shareholder, and (3) that no substantial part of its activities consisted of the dissemination of propaganda or otherwise attempting to influence legislation or engaging in political activity, National Association of American Churches v. Commissioner, 82 TC 18 (1984).

Our review of the application submitted indicates that while your organization meets the organizational test to be exempt under section 501(c)(3), you have not met your burden of proof to show that you are operated exclusively for an exempt purpose. Providing religious services for your members serves a religious purpose. However, your activities of conducting seminars on a 40 hour per week basis to sell insurance to fund the [REDACTED] to pay for housing and other benefits to individuals involving tax shelters, tax rebates and tax advantages for entertainers and athletics serve a substantial nonexempt purpose of providing tax and financial advice to individuals which is indistinguishable from an ordinary trade or business. These activities also prohibit exemption under section 501(c)(3) since they serve private rather than public interests required to be exempt under this section.

Based on the information submitted, we have determined that you are not entitled to exemption under section 501(c)(3) and are a taxable entity. You are required to file Federal income tax returns on Form 1120.

Contributions to your organization are not deductible under section 170 of the Code.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

[REDACTED]

If you do not appeal this determination within 30 days from the date of this letter, as explained in the enclosed Publication 892, this will become our final determination on this matter, and in accordance with section 6104 (c) of the Code, a copy of this letter will be sent to the appropriate State officials. Further, if you do not appeal this determination within the time provided, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) provides, in part, that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]

[REDACTED]  
District Director

Enclosure: Publication 892

cc: State Attorney General [REDACTED]